

***IN THE DISTRICT COURT OF THE UNITED STATES***

***for the Western District of New York***

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**MAY 2018 GRAND JURY  
(Impaneled 05/04/2018)**

**THE UNITED STATES OF AMERICA**

**-vs-**

**ANTHONY GERACE**

**SUPERSEDING  
INDICTMENT  
19-CR-86-LJV**

**Violations:**

Title 21, United States Code,  
Sections 846, 841(a)(1), 844(a) and  
856(a)(1);  
Title 18, United States Code, Sections  
924(a)(1)(A), 924(c)(1)(A)(i) and 2  
(11 Counts and 3 Forfeiture Allegations)

**COUNT 1**

**(Conspiracy to Distribute Controlled Substances)**

**The Grand Jury Charges That:**

Beginning in or before 2006 and continuing until on or about January 28, 2019, the exact dates being unknown to the Grand Jury, in the Western District of New York, and elsewhere, the defendant, **ANTHONY GERACE**, did knowingly, willfully, and unlawfully combine, conspire, and agree with others, known and unknown to the Grand Jury, to commit the following offenses, that is, to possess with intent to distribute, and to distribute:

- (a) 1000 kilograms or more of a mixture and substance containing marijuana, a Schedule I controlled substance;
- (b) delta-9 tetrahydrocannabinol (THC), a Schedule I controlled substance;
- (c) fentanyl, a Schedule II controlled substance;

- (d) 3,4-methylenedioxymethamphetamine (MDMA), a Schedule I controlled substance;
- (e) cocaine, a Schedule II controlled substance; and
- (f) oxycodone, a Schedule II controlled substance.

in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(A), and 841(b)(1)(C).

**All in violation of Title 21, United States Code, Section 846.**

## **COUNT 2**

### **(Maintaining a Drug-Involved Premises)**

#### **The Grand Jury Further Charges That:**

Beginning in or about 2007 and continuing to in or about December 2018, the exact dates being unknown to the Grand Jury, in the Western District of New York, the defendant, **ANTHONY GERACE**, did knowingly, intentionally, and unlawfully use and maintain a place, that is, the premises at 2130 Kensington Avenue, Amherst, New York, for the purpose of manufacturing, distributing, and using marijuana, a Schedule I controlled substance; fentanyl, a Schedule II controlled substance; and hydrocodone, a Schedule II controlled substance.

**All in violation of Title 21, United States Code, Section 856(a)(1), and Title 18, United States Code, Section 2.**

**COUNT 3**

**(Maintaining a Drug-Involved Premises)**

**The Grand Jury Further Charges That:**

Beginning in or about January 2019 and continuing until on or about January 28, 2019, in the Western District of New York, the defendant, **ANTHONY GERACE**, did knowingly, intentionally, and unlawfully use and maintain a place, that is, the premises at 9070 Michael Douglas Drive, Clarence Center, New York, for the purpose of manufacturing, distributing, and using marijuana, a Schedule I controlled substance and delta-9 tetrahydrocannabinol (THC), a Schedule I controlled substance.

**All in violation of Title 21, United States Code, Section 856(a)(1) and Title 18, United States Code, Section 2.**

**COUNT 4**

**(Possession with Intent to Distribute Marijuana)**

**The Grand Jury Further Charges That:**

On or about January 28, 2019, in the Western District of New York, the defendant, **ANTHONY GERACE**, did knowingly, intentionally, and unlawfully possess with intent to distribute marijuana, a Schedule I controlled substance.

**All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.**

**COUNT 5**

**(Possession with Intent to Distribute THC)**

**The Grand Jury Further Charges That:**

On or about January 28, 2019, in the Western District of New York, the defendant, **ANTHONY GERACE**, did knowingly, intentionally, and unlawfully possess with intent to distribute delta-9 tetrahydrocannabinol (THC), a Schedule I controlled substance.

**All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.**

**COUNT 6**

**(Possession of Anabolic Steroids)**

**The Grand Jury Further Charges That:**

On or about January 28, 2019, in the Western District of New York, the defendant, **ANTHONY GERACE**, did knowingly, intentionally, and unlawfully possess testosterone decanoate, testosterone phenylpropionate, testosterone isocaproate, and testosterone propionate, Schedule III controlled substances.

**All in violation of Title 21, United States Code, Section 844(a).**

**COUNT 7**

**(Possession of Firearms in Furtherance of Drug Trafficking)**

**The Grand Jury Further Charges That:**

Beginning in or before October 2014 and continuing until on or about January 28, 2019, the exact dates being unknown to the Grand Jury, in the Western District of New York,

the defendant, **ANTHONY GERACE**, in furtherance of drug trafficking crimes for which he may be prosecuted in a court of the United States, that is, violations of Title 21, United States Code, Sections 846, 841(a)(1), and 856(a)(1), committed in the manner set forth in Counts 1 through 5 of this Superseding Indictment, the allegations of which are incorporated herein by reference, did knowingly and unlawfully possess firearms.

**All in violation of Title 18, United States Code, Sections 924(c)(1)(A)(i) and 2.**

**COUNT 8**

**(False Statement During Purchase of a Firearm)**

**The Grand Jury Further Charges That:**

On or about October 30, 2014, in the Western District of New York, the defendant, **ANTHONY GERACE**, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code to be kept in the records of the Gun Center, Inc., a person licensed under the provisions of Chapter 44 of Title 18, United States Code, in that the defendant answered “No,” in response to question 11.e on an ATF Form 4473, Firearm Transaction Record, which asked “Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance,” when in truth and in fact, and as the defendant, **ANTHONY GERACE**, then and there knew, he was an unlawful user of controlled substances.

**All in violation of Title 18, United States Code, Section 924(a)(1)(A).**

**COUNT 9**

**(False Statement During Purchase of a Firearm)**

**The Grand Jury Further Charges That:**

On or about November 15, 2014, in the Western District of New York, the defendant, **ANTHONY GERACE**, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code to be kept in the records of the Gun Center, Inc., a person licensed under the provisions of Chapter 44 of Title 18, United States Code, in that the defendant answered “No,” in response to question 11.e on an ATF Form 4473, Firearm Transaction Record, which asked “Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance,” when in truth and in fact, and as the defendant, **ANTHONY GERACE**, then and there knew, he was an unlawful user of controlled substances.

**All in violation of Title 18, United States Code, Section 924(a)(1)(A).**

**COUNT 10**

**(False Statement During Purchase of a Firearm)**

**The Grand Jury Further Charges That:**

On or about August 23, 2016, in the Western District of New York, the defendant, **ANTHONY GERACE**, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code to be kept in the records of the Gun Center, Inc., a person licensed under the provisions of Chapter 44 of Title 18, United States Code, in that the defendant answered “No,” in

response to question 11.e on an ATF Form 4473, Firearm Transaction Record, which asked “Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance,” when in truth and in fact, and as the defendant, **ANTHONY GERACE**, then and there knew, he was an unlawful user of controlled substances.

**All in violation of Title 18, United States Code, Section 924(a)(1)(A).**

**COUNT 11**

**(False Statement During Purchase of a Firearm)**

**The Grand Jury Further Charges That:**

On or about August 7, 2018, in the Western District of New York, the defendant, **ANTHONY GERACE**, did knowingly make a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code to be kept in the records of the Gun Center, Inc., a person licensed under the provisions of Chapter 44 of Title 18, United States Code, in that the defendant answered “No,” in response to question 11.e on an ATF Form 4473, Firearm Transaction Record, which asked “Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance,” when in truth and in fact, and as the defendant, **ANTHONY GERACE**, then and there knew, he was an unlawful user of controlled substances.

**All in violation of Title 18, United States Code, Section 924(a)(1)(A).**

**FIRST FORFEITURE ALLEGATION**

**The Grand Jury Alleges That:**

Upon conviction of any or all of Counts 1, 3, 4, 5, and 7 of this Superseding Indictment, the defendant, **ANTHONY GERACE**, shall forfeit to the United States any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of said violations and any and all property used, and intended to be used, in any manner or part, to commit or to facilitate the commission of said violations, including, but not limited to the following:

- a. 9070 Michael Douglas Drive, Clarence, New York, Clarence, New York as described in a Deed Recorded in the Erie County Clerk's Office, Book of Deeds, No. 11338, Page 4120;
- b. The sum of \$103,360 in U.S. currency, seized on or about January 28, 2019, from 9070 Michael Douglas Drive, Clarence, New York; and
- c. The sum of at least but not limited to \$100,000 in U.S. currency, if not readily available, then in the form of a money judgment to be issued against the defendant.

**All pursuant to Title 21, United States Code, Sections 853(a)(1) and 853(a)(2).**

**SECOND FORFEITURE ALLEGATION**

**The Grand Jury Further Alleges That:**

Upon conviction of either or both of Counts 1 and 2 of this Superseding Indictment, the defendant, **ANTHONY GERACE**, shall forfeit to the United States any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of said violations and any and all property used, and intended to be used, in any manner or part, to commit or to facilitate the commission of said violations, including, but not limited to the following:



- a. 2130 Kensington Avenue, Amherst, New York as recorded in the Erie County Clerk's Office, Book of Deeds, No. 11338, Page 3039.

### **SUBSTITUTE ASSETS**

If any of the property described in subsection (a) of this Second Forfeiture Allegation, as a result of any act or omission of the defendant;

1. cannot be located upon the exercise of due diligence;
2. has been transferred or sold to, or deposited with, a third party;
3. has been placed beyond the jurisdiction of the court;
4. has been substantially diminished in value; or
5. has been commingled with other property which cannot be divided without difficulty;

the Court shall order the forfeiture of any other property of the defendant up to the value of 2130 Kensington Avenue, Amherst, New York.

**All pursuant to Title 21, United States Code, Sections 853(a)(1), 853(a)(2), and 853(p).**

### **THIRD FORFEITURE ALLEGATION**

#### **The Grand Jury Further Alleges That:**

Upon conviction of any of the counts of this Superseding Indictment, the defendant, **ANTHONY GERACE**, shall forfeit all his right, title, and interest to the United States of any firearms and ammunition involved or used in the commission of the offense, or found in the possession or under his immediate control at the time of arrest, including, but not limited to the following:

- a. One (1) Sig Sauer (Sig-Arms) unknown pistol, caliber: 9, bearing serial number: 66A042102;

- b. One (1) Glock GMBH 26 Pistol, caliber: 9, bearing serial number: XKY357;
- c. One (1) Sig Sauer (Sig-Arms) P938 Rainbow Pistol, caliber: 9, bearing serial number: 52B213273;
- d. One (1) HS Products (IM Metal) XDS Pistol, caliber: 45, bearing serial number: S3170938;
- e. One (1) Smith & Wesson Bodyguard Pistol, cal.:380, bearing serial number: KBF3330;
- f. One (1) Savage 71 Rifle, cal: 22, bearing serial number 05284SF;
- g. One (1) Savage Arms 62 Rifle, cal: 22, bearing serial number L354711;
- h. One (1) Tikka (OY Tikkakoski AB) T3X Rifle, unknown caliber, bearing serial number L89402;
- i. One (1) Smith & Wesson M&P Rifle, cal. :556, bearing serial number: 69778;
- j. One (1) Winchester, unknown model, Rifle, cal.: 22, bearing no serial number;
- k. One (1) Browning Auto 5 Shotgun, cal.: 12, bearing serial number: 03668NV211;
- l. One (1) Winchester 1200 Shotgun, cal.: 20, bearing serial number 93779;
- m. One (1) Browning Gold Shotgun, cal.: 12, bearing serial number: 113MY23314;
- n. One (1) Savage Stevens Favorite Rifle, cal. 22, bearing serial number 463;
- o. 23 rounds Federal 9 caliber ammunition;
- p. Five (5) rounds Federal 45 caliber ammunition
- q. Six (6) rounds Federal 380 caliber ammunition;
- r. 72 rounds assorted make/caliber ammunition;
- s. 73 rounds assorted make/caliber ammunition;

- t. 226 rounds assorted 22 caliber ammunition; and
- u. 157 rounds assorted make/caliber ammunition.

**All pursuant to Title 18, United States Code, Sections 924(d) and 3665, and Title 28, United States Code, Section 2461(c).**

DATED: Buffalo, New York, October 24, 2019.

JAMES P. KENNEDY, JR.  
United States Attorney

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A TRUE BILL:

S/FOREPERSON